

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 793 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

and

Hon'ble MR.JUSTICE H.K.RATHOD sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
No
2. To be referred to the Reporter or not? No :
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
No
5. Whether it is to be circulated to the Civil Judge? No :

NEW INDIA ASSURANCE CO. LTD.

Versus

KAILASHBA PARBATSINH JADEJA WD/O DECD. PARBATSINH B JADEJA

Appearance:

MR PV NANAVALI for Petitioner

MR MTM HAKIM for Respondent

CORAM : MR.JUSTICE D.C.SRIVASTAVA

and

MR.JUSTICE H.K.RATHOD

Date of decision: 05/07/2000

ORAL JUDGEMENT

(Per : D. C. Srivastava, J.)

1. With the consent of the learned Counsel for the parties this Appeal is being finally disposed of at the admission stage.

2. The Appeal is directed against the interim Award of M.A.C.Tribunal, Kutch-Bhuj rendered on 16th February 2000 under Section 163(A) of the Motor Vehicles Act awarding compensation of Rs.3,69,500/- together with interest at the rate of 12 % p.a. from the date of application till deposit.

3. We have heard the learned Counsel for the appellant and the respondents and also examined the impugned Award. Prima facie we do not find any ground for interference with the interim Award. It is undisputed between the parties that the claimants have filed Application under Section 166 of the Motor Vehicles Act, which is pending before the Tribunal. In the impugned Award sufficient safe-guard has been made keeping in view the interest of the appellant. The Tribunal has ordered payment of 40 % of the deposit and directed investment of the remaining 60 per cent in F.D.R. in some Nationalized Bank for six years. However, learned Counsel for the respondents states that there is no objection if instead of 40 per cent it is ordered that 30 per cent shall be paid to the claimants by A/c Payee Cheque. The points on which the interim Award is proposed to be attacked in this Appeal can be raised and agitated in reply to the petition under Section 166 of the Motor Vehicles act, which is pending before the Tribunal. As such, except partial modification of the award regarding direction for cash payment and consequent investment we do not think it proper and expedient to interfere with the remaining portion of the Award.

4. The Appeal is, therefore, dismissed. The order for disbursement passed by the Tribunal is modified to the extent that 30 per cent of the amount to be deposited by the appellant shall be paid through A/c. Payee Cheque to the claimants and 70 per cent shall be deposited in Fixed Deposit in some Nationalised Bank for a period of six years. The direction of the Tribunal regarding pre-mature withdrawal of the Fixed Deposit, etc. shall remain intact. No order as to costs.

5. The Appellant is directed to deposit the amount awarded by the Tribunal, less already deposited, within a period of four weeks from today. The respondents shall furnish an undertaking within four weeks from today

before the Tribunal that they shall not withdraw the petition under Section 166 of the Motor Vehicles Act and shall proceed with the same and get the same decided on merits.

sd/-

(D. C. Srivastava, J.)

Date : July 05, 2000 sd/-

(H. K. Rathod, J.)

sas